

Cell Site Number: WP-095  
Address: 300 W. Atlantic Ave, Delray Beach, FL 33444

### **LEASE AGREEMENT**

THIS LEASE AGREEMENT ("Agreement"), dated as of the date below, is entered into by THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida, having a mailing address of 100 NW First Avenue, Delray Beach, FL 33444 (hereinafter referred to as "Landlord") and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T Wireless, having an office at 11760 North U.S. Highway One, West Tower, North Palm Beach, FL 33408 (hereinafter referred to as "Tenant").

### **BACKGROUND**

Landlord owns that certain plot, parcel or tract of land, together with all rights and privileges arising in connection therewith, located at 300 W. Atlantic Ave., Delray Beach, in the County of Palm Beach, State of Florida (the "Property"). The Property being further identified on the Legal Description of the Property attached hereto as Exhibit 1. Tenant desires to lease a portion of the Property in connection with its federally licensed communications business.

The parties agree as follows:

1. **LEASE OF PREMISES.** Landlord leases to Tenant a portion of the Property consisting of (a) a room/cabinet/ground area space of approximately 550 square feet; and (b) space on the structure together with such non-exclusive easements as are necessary for the antennas and initial installation as described on the attached **Exhibit 2** (collectively the "Premises").
2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair and replacement of its communication facilities and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, equipment shelters or cabinets and fencing (collectively "Communication Facility"); such use may

include the right to test, survey and review title on the Property (collectively the "Tenant's Permitted Use"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 2** will not be deemed to limit Tenant's rights under this paragraph. If **Exhibit 2** includes conceptual drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of such conceptual drawings. Landlord warrants that is has not caused, nor will cause or allow the condition, zoning status or status of the Property to be changed, altered or modified in any manner that would adversely affect Tenant's Permitted Use of the Premises.

3. **TERM.** (a) The initial lease term will be five (5) years ("Initial Term"), commencing upon the Commencement Date, as defined below. The Initial Term will terminate on the last day of the month in which the fifth annual anniversary of the Commencement Date occurs.

(b) This Agreement will automatically renew for five (5) additional five (5) year Term(s) (the "Extension Term"), upon the same terms and conditions unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least ninety (90) days prior to the expiration of the existing Term.

(c) If Tenant remains in possession of the Premises after the termination or expiration of this Agreement then Tenant will be deemed to be occupying the Premises on a month to month basis (the "Holdover Term"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, Extension Term and the Holdover Term are collectively referred to as the Term ("Term").

4. **RENT.** (a) Commencing on the date that Tenant commences construction (the "Commencement Date"), Tenant will pay to Landlord a monthly rental payment of Two Thousand Dollars (\$2,000), plus any applicable tax ("Rent"), at the address set forth above on or before the 5<sup>th</sup> day of each calendar month in advance. Rent will be prorated for any partial month.

(b) Beginning with year two (2) of the Initial Term, and each year thereafter, including throughout any option terms exercised, the monthly Rent will increase by Three percent (3 %) over the previous year's Rent on a compounded basis.

(c) Tenant will have the right to use a direct deposit system with regard to Rent payments. Landlord agrees to cooperate with Tenant in providing requisite information to Tenant for such direct deposit. The implementation of the direct deposit system will be at Tenant's expense.

**5. APPROVALS.** (a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises for Tenant's Permitted Use and Tenant's ability to obtain all governmental licenses, permits, approvals or other relief required of or deemed necessary by Tenant for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively referred to as "Governmental Approvals"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Governmental Approvals for Tenant's use under this Agreement and agrees to reasonably assist Tenant with such applications.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of Tenant's choice.

(c) Tenant may also obtain, at Tenant's sole cost and expense, soil boring, percolation, engineering procedures, environmental investigation or other tests or reports ("Tests") on, over, and under the Property, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system design, operations or Governmental Approvals.

**6. TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice to the other party, if the other party remains in default under Paragraph 14 of this Agreement after the applicable cure periods;

(b) by Tenant on sixty (60) days notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now and hereafter intended by Tenant or if Tenant determines in its

sole discretion that the cost of obtaining or retaining the same is commercially unreasonable; and

(c) by Tenant on sixty (60) days written notice for any reason.

7. **INTERFERENCE.** (a) Where there are existing radio frequency user(s) on the Property, Landlord will provide Tenant with a list of all existing radio frequency user(s) and their frequencies on the Property in order to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Premises so disclosed by Landlord as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for use of the Property, if such use may in any way adversely affect or interfere with Tenant's Communication Facility. Landlord will notify Tenant in writing, prior to granting any third party the right to install and operate communications equipment on the Property, and Tenant may object in writing within ten (10) business days of the receipt of the Notice from the Landlord to the granting of the lease, license or other right to said third party, if Tenant can reasonably demonstrate to the satisfaction of the Landlord that such proposed lease, license or other right to said third party shall cause interference with Tenant's rights under this Lease Agreement. Nothing contained herein will restrict Tenant nor its successors and assigns from installing and modifying its communications equipment.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period then the parties acknowledge that Tenant will suffer irreparable injury, and therefore, Tenant will have the right, in addition to any other rights that Tenant may have at law or in equity, for Landlord's breach of this Agreement, to elect to enjoin such interference or to terminate the Agreement upon notice to Landlord.

- (d) Landlord will confer with Tenant, tenant(s) and/or licensee(s) to determine proper antenna separation so as to avoid and/or eliminate any interference with their respective operations.
- (e) The installation and maintenance of the Communication Facility will not interfere with the Landlord's existing emergency equipment, operations or any of Verizon's rights within the Property. In the event Tenant's installations interfere with the Landlord's equipment or operations, Tenant will immediately cease such interference, after notice thereof until it is able to resolve the problem. If the interference cannot be resolved, either party will be entitled to terminate this Agreement and render it null and void.

8. **INDEMNIFICATION.** (a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional acts or omissions of Landlord, its employees, agents or independent contractors.

- (b) To the extent allowed by law and subject to the provisions of 768.28 FS, Landlord agrees to indemnify defend and hold Tenant harmless from and against any injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from Landlord, its employees, agents, or independent contractors' breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional acts or omissions of Tenant, its employees, agents, or independent contractors.

- (c) The above indemnifications shall survive the termination of this Lease Agreement as to all claims arising from the period that this Lease was in effect.

- (d) Notwithstanding anything to the contrary in this Agreement, each of Tenant and Landlord hereby waives any claims that they may have against the other with respect to consequential, incidental or special damages.

**9. WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents and warrants that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, encroachments, development orders or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iv) Landlord's execution and performance of this Agreement will not violate any Laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will use best efforts to provide promptly to Tenant a mutually agreeable Subordination, Non-Disturbance and Attornment Agreement.

**10. ENVIRONMENTAL.**

(a) Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in, or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify to the extent permitted by law the other from and to assume all duties, responsibilities, and liabilities at its sole cost and expense, for all duties, responsibilities and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to

any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, and (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property or activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

(c) The indemnifications of this Paragraph 10 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remedial removal or restoration work required by any governmental authority. The provisions of this Paragraph 10 will survive the expiration or termination of this Agreement.

**11. ACCESS.** At all times throughout the term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour, seven (7) day pedestrian and vehicular access to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises and Landlord hereby grants to Tenant as an appurtenance and benefit to the Premises and non-exclusive easement for such access. Upon tenant's request, Landlord will execute a separate recordable easement agreement evidencing this right. In the event any public utility is unable to use the access provided to Tenant then Landlord hereby agrees to grant an additional access or easement either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant.

**12. REMOVAL / RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term. Within one hundred twenty (120) days of the termination of this Agreement, Tenant will remove all such improvements. Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted. Tenant will be responsible for the replacement of

any trees, shrubs, or other vegetation and Tenant will be required to remove from the Premises or the Property any underground utilities.

**13. MAINTENANCE / UTILITIES.** (a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

(b) Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord will fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Tenant. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to submeter from the Landlord if technically feasible. Tenant will pay on a monthly basis the current local utility company rate for submetered electric, after the meter is read by the Landlord and billed to Tenant. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

**14. DEFAULT AND RIGHT TO CURE.** (a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence, provided however any interference with Verizon's operations under its lease with the City not cured within 10 days of receipt of written notice from the City of such interference and/or any interference with the City's emergency communications/operations not cured within one (1) hour of receipt of notice from the City of such interference shall be grounds for termination of this Lease Agreement immediately thereafter. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord



will have the right to exercise any and all rights and remedies available to Landlord under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to perform any term or condition under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure, or if Landlord is in breach of any warranty or covenant under this Agreement including the provisions of Paragraph 2 above. No such failure, or breach, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights under this Agreement and any other rights available to Tenant at law or in equity, including the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant.

15. ASSIGNMENT / SUBLEASE. Tenant may assign, sell or transfer its interest under this Agreement without the approval or consent of Landlord, to the Tenant's principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all or substantially all of Tenant's assets in the market defined by the Federal Communications Commission in which the property is located by reason of a merger, acquisition, or other business reorganization. Upon notification to Landlord of such assignment, transfer or sale, Tenant will be relieved of all-future performance, liabilities and obligations under this Agreement. Tenant may not otherwise assign this Agreement without Landlord's consent.

16. NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties at the addresses set forth above (as to Tenant, AT&T Wireless Services, Attn.: System Development Manager; Re: Cell Site #: WP-95, at 300 W. Atlantic Ave., Delray Beach, FL, 33444. With a copy to: AT&T Wireless Services, Attn: Legal Department, Re: Cell Site #: WP-95, at West Tower, 11760 North U.S. Highway #1, North Palm Beach, Florida 33408.) Either

party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein.

17. **SEVERABILITY**. If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) days prior written notice to the other party hereto.

18. **CONDEMNATION**. In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Property, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

19. **CASUALTY**. Landlord will provide notice to Tenant of any casualty affecting the Property within forty-eight (48) hours of the casualty. If any part of the Communication Facility or Property is damaged by fire or other casualty so as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such damage or destruction. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis.

20. **BROKERS FEES**. Landlord acknowledges and represents that no broker or other person was used by it in connection with this transaction. If any claims, actions or proceedings are brought against either party ("Indemnitee") by reason of any broker, finder or other person claiming to have dealt with the other party ("Indemnitor") in connection with this transaction and /or Premises, then the Indemnitor hereby agrees to indemnify, hold harmless and defend Indemnitee from and against all liabilities arising from such claims, and all reasonable costs and expenses incurred in connection herewith (including, without limitation, reasonable legal

fees and disbursements). The provisions of this Paragraph will survive the termination of this Agreement.

**21. WAIVER OF LANDLORD'S LIENS.** Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility will be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law, and Landlord hereby consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

**22. INSURANCE.** Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$2,500,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by law.

**23. MISCELLANEOUS.** (a) **Amendment / Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties.

(b) **Short Form Lease / MOL.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form Lease. Either party may record this memorandum or short form lease at any time, in its absolute discretion.

(c) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property, and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(d) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and supersedes all prior offers, negotiations and agreements.

(e) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(f) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; and (vi) reference to a default will take into consideration any applicable notice, grace and cure periods.

(g) **Estoppel.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any; and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises. Failure to deliver such a statement within such time will be conclusive upon the requesting party that (i) this Agreement is in full force and effect, without modification except as may be properly represented by the requesting party; (ii) there are no uncured defaults in either party's performance; and (iii) no more than one month's Rent has been paid in advance.

(h) **No Option.** The submission of this Agreement for examination or consideration does not constitute a reservation of or option for the Premises. This Agreement will become effective as an Agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(i) **Taxes.** AT&T Wireless shall be responsible for paying all personal property taxes assessed directly upon AT&T Wireless communications facilities located on the Leased Property. Landlord shall be responsible for paying all personal property taxes assessed directly upon any improvements owned by Landlord and located on Landlord's property. Landlord shall also be responsible for paying

all real property taxes assessed directly upon the Landlord's Property including, without limitation, the Leased Property, provided however, if any portion of AT&T Wireless communications facilities is assessed as real property rather than as personal property, AT&T Wireless shall be responsible for paying to Landlord, within thirty (30) days of AT&T Wireless receipt of written notice thereof, the portion of the real estate taxes attributable to AT&T Wireless communications facilities, and Landlord shall pay such taxes to the appropriate governmental authorities upon receipt of such funds from AT&T Wireless.

(j) **Compliance with Governmental Laws.** Landlord represents, warrants and agrees that throughout the term of this Lease Agreement, as may be extended, the Landlord's Property including without limitation, the Leased Property and all improvements thereon other than improvements owned by AT&T Wireless or its sublessees and/or licensees, shall be in compliance with all laws, codes, and regulations of all federal, state and local governmental or quasi-governmental authorities (collectively, "Governmental Laws"). Subject to Landlord's compliance with the terms of this paragraph. AT&T Wireless agrees that any improvements constructed on the Leased Property by AT&T Wireless and/or its sublessees and/or licensees and the operation of the communications facilities of AT&T Wireless and/or its sublessees and/or licensees on the Leased Property shall be in compliance with all Governmental Laws.

(k) **Radon Gas.** In accordance with Florida law, the following notice is hereby given to Tenant: "RADON GAS": RADON IS NATURALLY OCCURRING RADIOACTIVE GAS THAT WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON GAS THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT."

(l) Notwithstanding the foregoing, even if otherwise expressly stated elsewhere in this Lease Agreement, Tenant recognizes and acknowledges that Landlord has entered into that certain Lease dated November 2, 2000 with Verizon Wireless ("Verizon Lease") and

acknowledges that all of Tenants rights are subject to the rights of Landlord and Verizon under the current terms of the Verizon Lease.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed with an effective date of June 6<sup>th</sup>, 2001.

WITNESSES:

Barbara Garito

Print Name: BARBARA GARITO

Nylea Madden

Print Name: NYLEA MADDEN

"LANDLORD"

THE CITY OF DELRAY BEACH,  
a municipal corporation in the County of Palm  
Beach and State of Florida

By: David W. Schmidt

Print Name: David W. Schmidt

Its: Mayor

Federal Tax ID#: exempt

"TENANT"

AT&T WIRELESS SERVICES OF  
FLORIDA, INC.,  
a Florida corporation

Robert Riccardo

Print Name: Robert Riccardo

Bright Johnson

Print Name: BRIGHT JOHNSON

By: Michael J. Julian

Michael J. Julian

Its: System Development Manager

[ACKNOWLEDGMENTS ON NEXT PAGE]

TENANT

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of May, 2001, by Michael J. Julian, System Development Manager of AT&T WIRELESS SERVICES OF FLORIDA, INC. (a Florida corporation), d/b/a AT&T WIRELESS, on behalf of the corporation, (✓) who is personally known OR ( ) who has produced \_\_\_\_\_ as identification.

Brigitte Johnson  
Notary Public  
Print Name: BRIGITTE JOHNSON  
My Commission Expires: 4/9/2005



Brigitte Johnson  
Commission # DD 016460  
Expires April 9, 2005  
Bonded Thru  
Atlantic Bonding Co., Inc.

LANDLORD

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of June, 2001, by David W. Schmidt, Mayor of THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida [name of corporation, a municipal corporation on behalf of the corporation, (✓) who is personally known OR ( ) who has produced \_\_\_\_\_ as identification.

Susan L. Maloney  
Notary Public  
Print Name: SUSAN L. MALONEY  
My Commission Expires: OCT. 16, 2002





**EXHIBIT 1**

**DESCRIPTION OF PROPERTY**

to the Agreement dated June 6<sup>th</sup>, 2001, by and between THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida, as Landlord, and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T WIRELESS, as Tenant.

The Property is described and/or depicted as follows:

**DESCRIPTION OF PARENT TRACT**

*(AS SUPPLIED BY CLIENT)*

LOTS 1 THRU 49, INCLUSIVE, BLOCK 37, RE-SUBDIVISION OF BLOCKS 29 & 37, DELRAY BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9 AT PAGE 66 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY FOR STATE ROAD 806 (WEST ATLANTIC AVENUE) AS SHOWN IN ROAD PLAT BOOK 3 AT PAGE 30 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

**Note:**

1. If the foregoing description is not a metes and bounds legal description, the parties agree to replace the foregoing description with a metes and bounds legal description of the Property upon receipt thereof.

Structure Lease 06-14-00

EXHIBIT 2

DESCRIPTION OF PREMISES

Page 1 of 2

to the Agreement dated June 6<sup>th</sup>, 2001, by and THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida, as Landlord, and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T WIRELESS, as Tenant.

The Premises are described and/or depicted as follows:

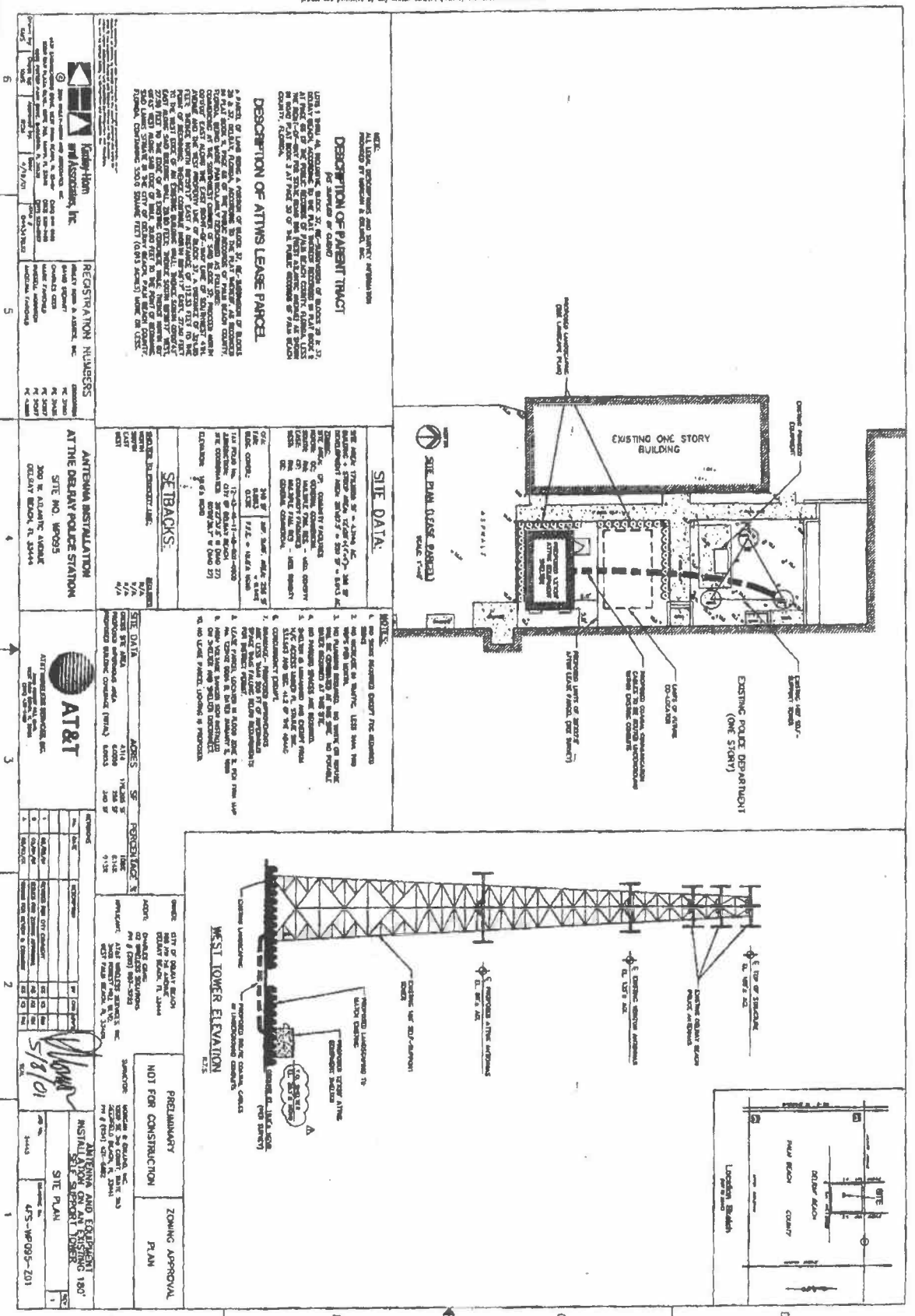
DESCRIPTION OF ATTWS LEASE PARCEL

A PARCEL OF LAND BEING A PORTION OF BLOCK 37, RE-SUBDIVISION OF BLOCKS 29 & 37, DELRAY, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 66 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 37; PROCEED NORTH 00°0'00" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 4TH. AVENUE AND THE WEST PROPERTY LINE OF BLOCK 37, A DISTANCE OF 324.85 FEET; THENCE NORTH 89°59'17" EAST A DISTANCE OF 112.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°59'17" EAST, 27.50 FEET TO THE WEST EDGE OF AN EXISTING BUILDING WALL; THENCE SOUTH 00°00'43" EAST ALONG SAID BUILDING WALL, 20.00 FEET; THENCE SOUTH 89°59'17" WEST, 27.50 FEET TO THE EDGE OF AN EXISTING CONCRETE WALK; THENCE NORTH 00°00'43" WEST ALONG SAID EDGE OF WALK, 20.00 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA, CONTAINING 550.0 SQUARE FEET (0.013 ACRES) MORE OR LESS.

Notes:

1. This Exhibit may be replaced by a land survey of the Premises once it is received by Tenant.
2. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

Structure Lease 06-14-00



**ATTACHMENT 1**

**MEMORANDUM OF LEASE**

**[FOLLOWS ON NEXT PAGE]**

**Prepared by :**

Don Haskell, Site Acquisition Specialist  
02 Wireless Solutions  
2456 Tradewinds Drive  
Dunedin, FL 34698

**Return to:**

AT&T Wireless Services  
Attn: Legal Department  
11760 North U.S. Highway 1  
West Tower  
North Palm Beach, FL 33408

Cell Site No.: WP-95

State: Florida

County: Palm Beach

**MEMORANDUM  
OF  
LEASE**

This Memorandum of Lease is entered into on this 6<sup>th</sup> day of June, 2001, by and between THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida having a mailing address of 100 NW First Ave., Delray Beach, FL 33444 (hereinafter referred to as "Landlord") and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T WIRELESS, with an office at 11760 North U.S. Highway One, West Tower, North Palm Beach, FL 33408 (hereinafter referred to as "Tenant").

1. Landlord and Tenant entered into a certain Lease Agreement ("Agreement") on the 6<sup>th</sup> day of June, 2001, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The term of the Agreement is for an Initial Term of five (5) years commencing on the date that Tenant commences construction and ending on the last day of the month in which the fifth (5th) anniversary of the Commencement Date occurs, with five (5) successive five (5) year options to renew.

3. The land which is the subject of the Agreement is described in Exhibit 1 annexed hereto. The portion of the land being leased to Tenant (the "Premises") is described in Exhibit 2 annexed hereto.
4. The Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Lease.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

WITNESSES:

*Barbara Garito*  
Print Name: BARBARA GARITO

*Nileah Madden*  
Print Name: NILEAH MADDEN

"LANDLORD"

THE CITY OF DELRAY BEACH,  
a municipal corporation in the County of Palm  
Beach and State of Florida

By: *David W. Schmidt*  
Print Name: David W. Schmidt  
Its: Mayor  
Federal Tax ID#: exempt

WITNESSES:

*Robert Riccardo*  
Print Name: Robert Riccardo

*Brigitte Johnson*  
Print Name: BRIGITTE JOHNSON

"TENANT"

AT&T WIRELESS SERVICES OF  
FLORIDA, INC.,  
a Florida corporation

By: *Michael J. Julian*  
Michael J. Julian  
Its: System Development Manager

[ACKNOWLEDGEMENTS ON NEXT PAGE]

TENANT

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of May, 2001, by Michael J. Julian, System Development Manager of AT&T WIRELESS SERVICES OF FLORIDA, INC. (a Florida corporation), d/b/a AT&T WIRELESS, on behalf of the corporation, ( ☒ ) who is personally known OR ( ) who has produced \_\_\_\_\_ as identification.

Brigitte Johnson  
Notary Public

Print Name: BRIGITTE JOHNSON

My Commission Expires: 4/9/2005



Brigitte Johnson  
Commission # DD 016460  
Expires April 9, 2005  
Bonded Thru  
Atlantic Bonding Co., Inc.

LANDLORD

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of June, 2001, by David W. Schmidt, Mayor of THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida [name of corporation, a municipal corporation on behalf of the corporation, ( ☒ ) who is personally known OR ( ) who has produced \_\_\_\_\_ as identification.



Susan L. Maloney  
Notary Public

Print Name: SUSAN L. MALONEY

My Commission Expires: Oct. 16, 2002

**EXHIBIT 1**

**DESCRIPTION OF PROPERTY**

to the Agreement dated June 6<sup>th</sup>, 2001, by and between THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida, as Landlord, and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T WIRELESS, as Tenant.

The Property is described and/or depicted as follows:

**DESCRIPTION OF PARENT TRACT**

(AS SUPPLIED BY CLIENT)

LOTS 1 THRU 49, INCLUSIVE, BLOCK 37, RE-SUBDIVISION OF BLOCKS 29 & 37, DELRAY BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9 AT PAGE 66 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY FOR STATE ROAD 806 (WEST ATLANTIC AVENUE) AS SHOWN IN ROAD PLAT BOOK 3 AT PAGE 30 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

**Note:**

1. If the foregoing description is not a metes and bounds legal description, the parties agree to replace the foregoing description with a metes and bounds legal description of the Property upon receipt thereof.

Structure Lease 06-14-00



EXHIBIT 2

DESCRIPTION OF PREMISES

Page 1 of \_\_\_\_

to the Agreement dated June 6<sup>th</sup>, 2001, by and THE CITY OF DELRAY BEACH, a municipal corporation in the County of Palm Beach and State of Florida, as Landlord, and AT&T WIRELESS SERVICES OF FLORIDA, INC., a Florida corporation, d/b/a AT&T WIRELESS, as Tenant.

The Premises are described and/or depicted as follows:

DESCRIPTION OF ATTWS LEASE PARCEL

A PARCEL OF LAND BEING A PORTION OF BLOCK 37, RE-SUBDIVISION OF BLOCKS 29 & 37, DELRAY, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 66 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 37; PROCEED NORTH 00°0'00" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST 4TH. AVENUE AND THE WEST PROPERTY LINE OF BLOCK 37, A DISTANCE OF 324.85 FEET; THENCE NORTH 89°59'17" EAST A DISTANCE OF 112.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°59'17" EAST, 27.50 FEET TO THE WEST EDGE OF AN EXISTING BUILDING WALL; THENCE SOUTH 00°00'43" EAST ALONG SAID BUILDING WALL, 20.00 FEET; THENCE SOUTH 89°59'17" WEST, 27.50 FEET TO THE EDGE OF AN EXISTING CONCRETE WALK; THENCE NORTH 00°00'43" WEST ALONG SAID EDGE OF WALK, 20.00 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA, CONTAINING 550.0 SQUARE FEET (0.013 ACRES) MORE OR LESS.

Notes:

1. This Exhibit may be replaced by a land survey of the Premises once it is received by Tenant.
2. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

Structure Lease 06-14-00